Division Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 2577 /2005

PETITIONER

D.S. Rajput,
S/o. Late Shri S.N. Rajput, Aged about 42 years, R/o. Shop No. 21, Sector 7, Bhilai, District Durg (C.G)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through its Secretary, Food & Civil Supplies and Consumer Protection Department, Mantralaya, D.K.S.Bhawan,Raipur(C.G)

2. Joint Director, Food & Civil Supplies, Govt. of Chhattisgarh, Raipur (C.G.)

3. Collector, Durg (C.G.)

4. Food Controller, Durg (C.G.)

P.R. No. 2723/05 Presented by Shri R.K. Pali dated 20/6/05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS ETC.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 2577 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB: Hon'ble Shri A.K.Patnaik, C.J. &
Hon'ble Shri Sunil Kumar Sinha, J.

24.6.2005

Heard Mrs. Fouzia Mirza, learned counsel for the petitioner and Shri P.S. Koshy, Deputy Advocate General for the State of Chhattisgarh.

The petitioner was allocated a Fair Price Shop at Ward No.61, Maroda Tank, Bhilai, Distt. Durg. On account of some alleged irregularities, the Food Controller, Durg, cancelled the allotment of the said Fair Price Shop allocated to the petitioner vide order dated 03.03.2005. Aggrieved, the petitioner initially filed an appeal before the Joint Director, Food and Civil Supplies, Govt. of Chhattisgarh, Raipur and by order dated 14.3.2005 the Joint Director, Food and Civil Supplies, issued direction to the Collector Durg to consider the appeal preferred by the petitioner. But the Collector, Durg has dismissed the appeal of the petitioner by order dated 11.5.2005 on the ground that under the Circular dated 14.8.2003 issued by the Food & Civil Supply and Consumer Protection Department, Govt. of Chhattisgarh, the State Government and not the Collector is the appellate authority.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –2–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Aggrieved by the said order dated 11.5.2005 of the Collector, Durg, the petitioner filed this writ petition under Article 226 of the Constitution.

We find on a reading of the Circular dated 14.8.2003 issued by the Food & Civil Supplies and Consumer Protection Department, copy of which produced before us, that the said circular was issued when the Chhattisgarh (Khadya Padarth) Sarvajanik Nagarik Purti Vitaran Scheme 2001 was in force but in the meanwhile the Chhattisgarh Sarvajanik Vitaran Pranali (Niyantran) Adesh 2004 {Chhattisgarh Public Distribution System (Control) Order 2004, has come into force by notification dated 12th of December 2004. A reading of Clause 18(2) of the aforesaid Chhattisgarh Public Distribution System (Control) Order 2004 would show that any person aggrieved by an order passed by the designated officer for allotment or cancellation of fair price shop may appeal to the Collector within 30 days from the date of receipt of the order and any person who is aggrieved by the order of the Collector may appeal to the State within 30 days of the date of receipt of the order and the decision of the State Government shall be final. A reading of Clause 21 of the Chhattisgarh Public

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Distribution System (Control) Order 2004, further shows that the Chhattisgarh (Khadya Padarth) Sarvajanik Nagarik Purti Vitaran Scheme 2001 has been rescinded. The result is that the State Government is no longer the appellate authority over the order passed by the designated officer other than the Collector and the Collector is the appellate authority over the order passed by the designated officer for cancellation of Fair Price Shop as per Clause 18.2 of the Chhattisgarh Public Distribution System (Control) Order 2004. Further the last clause 21 of the said order 2004 provides that notwithstanding such repeal, any order issued under the said Scheme 2001 shall be deemed to have made granted or issued under the Chhattisgarh Public Distribution System (Control) Order 2004. Hence the order dated 03.3.2005 (Annexure P-6) passed by the Food Controller, Durg would be deemed to be an order passed under the Chhattisgarh Public Distribution System (Control) Order 2004 and could be challenged before the Collector by way of an appeal under Clause 18.2 of the said order 2004. The Collector Durg, therefore, was not legally right in coming to the conclusion	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —4—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	that the order passed could be challenged before the State Government and not before him. For the aforesaid reasons, the impugned order dated 11.5.2005 passed by the Collector, Durg, is quashed and the Collector, Durg is directed to hear the appeal on merits and pass fresh orders in accordance with law. This direction be complied within 2 months from the date of receipt of the certified copy of the order by the Collector. C.C. as per rules. Sd/- Chief Justice Sd/- Sunil Kumar Sinha Judge	

Rao